

DETAILED ACTION

Finality Withdrawn

Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

Double Patenting

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1-3, 5-12, 14-34, 36-37, 40-43, 47-49 and 51-53 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-37 of U.S. Patent No. 7209903 and over claims 1-41 of U.S. Patent No. 7240036.

Although the conflicting claims are not identical, they are not patentably distinct from each other because, i.e. claim 1 in the present application describes, a method for facilitating a wireless transaction, the wireless transaction involving a purchase action with respect to a product or service, and a fulfillment action associated with the purchase action, the fulfillment action involving associated with personal bodily entry into or through a physical structure using a wireless communication device, comprising: at a first time, receiving a wireless transaction request from a transaction requester seeking, at a second time, personal bodily entry into or through the physical structure using the wireless communications device, the wireless transaction request initiating the purchase action with respect to the product or service over a wireless communication link; in response to the wireless transaction request and an approval of the purchase action with respect to the product or service, receiving over the wireless communication link, by the wireless communication device, a first transaction code capable of being optically scanned for authorizing the fulfillment action at a point of fulfillment, the first transaction code being a two dimensional (2D) image that encodes information in two dimensions: displaying the first transaction code on a the visual display of the wireless communication device; at the second time and at the point of fulfillment, optically scanning the first transaction code from the visual display of the wireless communication device to permit the personal bodily entry into or through the physical structure to partially complete the wireless transaction; and transmitting a device indicating that the transaction has been fulfilled at a third time distinct from the first time and the second time, optically scanning a second transaction code from the visual

display of the wireless communication device to complete the wireless transaction found in U.S. Patent No. 7209903 with obvious wordings variation and the difference between the claims in the pending application and the claims in the patent is that the claims in the pending application are more broader than claims in the patent.

Although the conflicting claims are not identical, they are not patentably distinct from each other because, i.e. claim 1 in the present application describes, a method for facilitating a wireless transaction, the wireless transaction involving a purchase action with respect to a product or service, and a fulfillment action associated with the purchase action, the fulfillment action involving associated with personal bodily entry into or through a physical structure using a wireless communication device, comprising: at a first time, receiving a wireless transaction request from a transaction requester seeking, at a second time, personal bodily entry into or through the physical structure using the wireless communications device, the wireless transaction request initiating the purchase action with respect to the product or service over a wireless communication link; in response to the wireless transaction request and an approval of the purchase action with respect to the product or service, receiving over the wireless communication link, by the wireless communication device, a first transaction code capable of being optically scanned for authorizing the fulfillment action at a point of fulfillment, the first transaction code being a two dimensional (2D) image that encodes information in two dimensions: displaying the first transaction code on a the visual display of the wireless communication device; at the second time and at the point of fulfillment, optically scanning the first transaction code from the visual display of the wireless

communication device to permit the personal bodily entry into or through the physical structure to partially complete the wireless transaction; and transmitting a device indicating that the transaction has been fulfilled at a third time distinct from the first time and the second time, optically scanning a second transaction code from the visual display of the wireless communication device to complete the wireless transaction found in U.S. Patent No. 7240036 with obvious wordings variation and the difference between the claims in the pending application and the claims in the patent is that the claims in the pending application are more broader than claims in the patent.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-3, 5-12, 14-25, 30, 34, 36-37, 40-43, 47-49 and 51-53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lewis (20030105641) in view of Hymel et al (WO 00/03328) and Melick et al (20070246538).

Regarding claim 1 Lewis teaches a method for facilitating a wireless transaction, the wireless transaction involving a purchase action with respect to a product or service, and a fulfillment action associated with the purchase action, the fulfillment action involving personal bodily entry into or through a physical structure using a wireless communication device (cell phone 112,182), comprising (figs. 5 and 7):

at a first time, receiving a wireless transaction request from a transaction requester seeking, at second time, personal bodily entry into or through a the physical structure using a the wireless communications device (cell phone 112,182), the wireless transaction request initiating the purchase action with respect to the product or service over a wireless communication link (186) (a computer system 18 provides a screen {display} to a cell phone 112,182, when it accesses the system over Internet {using cellular service 186}). The display has information relating to the selection of an event, purchasing of an electronic ticket fig.4 include barcode 42 for the event, payment for the electronic ticket) (para. # 0027);

in response to the wireless transaction request and an approval of the purchase action with respect to the product or service, receiving over the wireless communication link, by a the wireless communication device, a first transaction code representative capable for authorizing the fulfillment action at a point of fulfillment (generating the ticket to gain entrance at the event, an UPC (barcode 42) displayed on a display associated with the device 182. The validation system (24) validates the electronic ticket include barcode 42 (22) to allow entrance into the event) (para. # 0027, 0030-0031);

displaying the first transaction code on a visual display of the wireless communication device (presenting an code on a screen associated with the cell phone 112, also see fig. 4, element 42, para. # 0027); and

at the second time and at the point of fulfillment, the first transaction code from the wireless communication device permitting to permit the personal bodily entry into or through the physical structure to complete the wireless transaction, and at a third time

distinct from the first time and the second time, optically scanning a second transaction code from the visual display of the wireless communication device to complete the wireless transaction (para. # 0027, 0030-0031, fig. 2, 5-7). Lewis does not specifically teach in detail at a third time distinct from the first time and the second time, optically scanning a second transaction code from the visual display of the wireless communication device to complete the wireless transaction.

In a similar field of endeavor, Hymel et al teaches a third time distinct (next coupon display and redeem) from the first time and the second time, optically scanning a second transaction code from the visual display of the wireless communication device to complete the wireless transaction, optically scanning the first transaction code from the wireless communication device (displaying stored user information on the SCR10 in bar code format such that the stored user information can be read at the point-of-sale by scanner se step 182, fig. 9, page 9, line 2-page 10, line 3, page 11, lines 14-20). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device of Lewis by specifically adding optically scanning the first transaction code from the wireless communication device it for the purpose of increasing the efficiency of communication system, providing demographic information and to redeem code for users of selective call receiver as taught by Hymel et al. Hymel et al further teaches that transmitting a message to the wireless communications device indicating that the wireless transaction has been fulfilled (page. 12, lines 6-11). Hymel et al teaches user information is stored in the selective call receiver and providing information in bar code format on a display (28, fig. 1) SCR

(mobile station). The display can display information in bar code format (Figs. 2 and 3). The information in bar code format can include user information in bar code format or an affinity code and an identifier in bar code format (page 4. line 3-13, The computer 138 may then instruct the messaging system 148 to send a message to the user's SCR to notify the user of the total coupon discounts that were applied in step 188). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device of Lewis by specifically adding a message to the wireless communications device indicating that the wireless transaction has been fulfilled it for the purpose of providing notification base on accepted transaction for increasing the efficiency of communication system as taught by Hymel et al. Lewis teaches that the ticket 40 has an area 42 in which a code, such as an universal product bar code (UPC) see fig. 2, or a unique identifier code. Although an UPC has been described other codes, such as alphanumeric type codes, are possible and contemplated for use by the system 10 (para. # 0024). Lewis and Hymel et al do not specifically teach the first transaction code being a two dimensional image that encodes information in two dimensions.

In a similar field of endeavor, Melick teaches the first transaction code being a two dimensional (2D) image that encodes information in two dimensions (para. # 0035, 0041). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device of Lewis and Hymel et al by specifically adding transaction code being a two dimensional it for the purpose of

increasing the efficiency of communication system, minimizes the need for middleware, and effectively reads standardized bar code symbology taught by Melick.

Regarding claim 48 Lewis teaches method for facilitating a wireless transaction, the wireless transaction involving a transaction request and an authorization with respect to a product or service, and a fulfillment event associated with the transaction request and authorization, the fulfillment event occurring at a point of fulfillment using a wireless communication device, and wherein the fulfillment event is conditioned upon the transaction request and authorization, comprising (figs. 4-5 and 7):

receiving, at a transaction apparatus and over a wireless communication link, a wireless the transaction request for a user selected wireless transaction;
in response to the received user selected transaction request, determining whether the authorization has been obtained (para. # 0027, 0030-0031);

if the authorization has been obtained, communicating an transaction code from the transaction apparatus to a wireless communication device, the transaction code being capable from the wireless communication device and verified for authorizing the fulfillment event at the point of fulfillment to complete the wireless transaction (para. # 0027, 0030-0031). Lewis does not specifically teach in detail at a third time distinct from the first time and the second time, optically scanning a second transaction code from the visual display of the wireless communication device to complete the wireless transaction.

In a similar field of endeavor, Hymel et al teaches a third time distinct (next coupon display and redeem) from the first time and the second time, optically scanning

a second transaction code from the visual display of the wireless communication device to complete the wireless transaction, optically scanning the first transaction code from the wireless communication device (displaying stored user information on the SCR10 in bar code format such that the stored user information can be read at the point-of-sale by scanner se step 182, fig. 9, page 9, line 2-page 10, line 3, page 11, lines 14-20).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device of Lewis by specifically adding optically scanning the transaction code from the wireless communication device it for the purpose of increasing the efficiency of communication system, providing demographic information and to redeem code for users of selective call receiver as taught by Hymel et al. Hymel et al further teaches transmitting a message to the wireless communications device indicating that the wireless transaction has been fulfilled (page. 12, lines 6-11). Hymel et al teaches user information is stored in the selective call receiver and providing information in bar code format on a display (28, fig. 1) SCR (mobile station). The display can display information in bar code format (Figs. 2 and 3). The information in bar code format can include user information in bar code format or an affinity code and an identifier in bar code format (page 4. line 3-13, The computer 138 may then instruct the messaging system 148 to send a message to the user's SCR to notify the user of the total coupon discounts that were applied in step 188). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device of Lewis by specifically adding a message to the wireless communications device indicating that the wireless transaction has been fulfilled it for

the purpose of providing notification base on accepted transaction for increasing the efficiency of communication system as taught by Hymel et al. Lewis and Hymel et al do not specifically teach the first transaction code being a two dimensional image that encodes information in two dimensions.

In a similar field of endeavor, Melick teaches the first transaction code being a two dimensional (2D) image that encodes information in two dimensions (para. # 0035, 0041). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device of Lewis and Hymel et al by specifically adding transaction code being a two dimensional it for the purpose of increasing the efficiency of communication system, minimizes the need for middleware, and effectively reads standardized bar code symbology taught by Melick.

Regarding claim 2 Hymel et al teaches wherein receiving the first transaction code includes receiving a first optically scannable transaction code (page 4, lines 5-15, page 6, lines 11-15, fig.2, see claim 1).

Regarding claims 3,49 Hymel et al teaches wherein receiving the first optically scannable transaction code includes receiving a first transaction barcode (page 4, lines 3-15, page 6, lines 11-15 fig.2, 3, see claim 1).

Regarding claims 5, 51 Hymel et al teaches communicating the first transaction code from a transaction apparatus to the wireless communication device (page 4 lines 3-5, see claim 1).

Regarding claims 6-8 Hymel et al teaches wherein communicating the first transaction code includes communicating the first transaction code directly from the transaction apparatus to the wireless communication device (page 6, lines 11-36).

Regarding claim 9 Hymel et al teaches further comprising: verifying the first transaction code in response to scanning the transaction code (page 10, lines 1-20).

Regarding claim 10 Hymel et al teaches wherein verifying the first transaction code includes communicating a decoded representation of the first transaction code from a transaction fulfillment system of a transaction apparatus to a transaction management system of the transaction apparatus (page 10, lines 16-25).

Regarding claim 11 Hymel et al teaches receiving, by the wireless communication device, a second transaction code after verifying the first transaction code (page 7, lines 7-32, page 8, line 26, page 9, line 10).

Regarding claims 12, 52 and 53 Hymel et al teaches wherein second transaction code differs from the first transaction code (page 8, line 26, page 9, line 1, page 10, line 25, page 7, lines 7-32).

Regarding claim 14 Hymel et al teaches communicating the second transaction code from a transaction apparatus to the wireless communication device (page 8, line 26, page 9, line 10, page 7, lines 7-32).

Regarding claim 15 Hymel et al teaches communicating the second transaction code includes communicating the second transaction code directly from the transaction apparatus to the wireless device (page 8, line 26, page 9, line 10, and page 7, lines 7-32)

Regarding claim 16 Hymel et al teaches wherein communicating the second transaction code directly from the transaction apparatus includes communicating the second transaction code from a radio transceiver of the transaction apparatus to a radio transceiver of the wireless communication device (page 7, lines 7-32, page 8, line 26, page 8, line 10).

Regarding claim 17 Hymel et al teaches wherein communicating the second transaction code from the radio transceiver of the transaction apparatus includes communicating the second transaction code from a transaction fulfillment system of the transaction apparatus (page 8, line 26, page 8, line 10, page 12, lines 1-12 page 7, lines 7-32).

Regarding claim 18 Hymel et al teaches, further comprising: optically scanning the second transaction code from the visual display of the wireless communication device; verifying the second transaction code; and receiving, by the wireless communication device, a transaction fulfillment message (page 8, line 26, page 8, line 10, page 12, lines 1-12 page 7, lines 7-32).

Regarding claim 19 Hymel et al teaches further comprising: communicating the transaction fulfillment message from a transaction apparatus to the wireless communication device (page 12, lines 1-12 page 7, lines 7-32).

Regarding claim 20 Hymel et al teaches where communicating the transaction fulfillment message includes communicating the transaction fulfillment message directly from the transaction apparatus to the wireless communication device (page 12, lines 1-12 page 7, lines 7-32).

Regarding claim 21 Hymel et al teaches wherein communicating the transaction fulfillment message directly from the transaction apparatus includes communicating the transaction fulfillment message from a radio transceiver of the transaction apparatus to a radio transceiver of the wireless communication device (page 12, lines 1-12 page 7, lines 7-32).

Regarding claim 22 Hymel et al teaches wherein communicating the transaction fulfillment message from the radio transceiver of the transaction apparatus includes communicating the transaction fulfillment message from a transaction fulfillment system of the transaction apparatus (page 12, lines 1-12 page 7, lines 7-32).

Regarding claim 23 Hymel et al teaches wherein verifying the second transaction code includes communicating a decoded representation of the second transaction code from a transaction fulfillment system of a transaction apparatus to a transaction management system of the transaction apparatus (page 12, lines 1-12 page 7, lines 7-32).

Regarding claims 24,25 Hymel et al teaches receiving, at a transaction apparatus, a transaction request from a transaction requester; verifying an identity of the transaction requester, and communicating the first transaction code from the transaction apparatus to the wireless communication device after verifying the identity of the transaction requester and wherein receiving the transaction request includes receiving the transaction request from the wireless communication device of the transaction requester (page 7, line 30-page 8, line 9, page 10, lines 5-13 and 20-25).

Regarding claim 30 Lewis teaches a system for facilitating a wireless transaction, the wireless transaction involving a purchase action with respect to a product or service, and a fulfillment action associated with the purchase action, the fulfillment action involving personal bodily entry into or through a physical structure using a wireless communication device, comprising (figs. 4-5 and 7):

a wireless communication device capable of (cell phone 112,182):

receiving a transaction code capable of being displayed on the wireless communication device and authorizing the fulfillment action at a point of fulfillment (presenting an UPC code on a screen associated with the cell phone 112, also see fig. 4) (para. # 0027.0030); and

displaying the transaction code on a visual display of the wireless communication device (para. # 0027.0030); and

a transaction apparatus capable of:

receiving, over a wireless communication link, a wireless transaction request to from a transaction requester seeking personal bodily entry into or through the physical structure using the wireless communication device (para. # 0027.0030-0031);

verifying an identity of the transaction requester (para. # 0027.0030-0031);

approving the purchase action with respect to the product or service (para. # 0027.0030-0031);

communicating a transaction code to the wireless communication device and the transaction code from the visual display of the wireless communication device personal bodily entry into or through a physical structure at the point of fulfillment

to complete the wireless transaction (para. # 0027, 0030-0031). Lewis does not specifically teach in detail at a third time distinct from the first time and the second time, optically scanning a second transaction code from the visual display of the wireless communication device to complete the wireless transaction.

In a similar field of endeavor, Hymel et al teaches a third time distinct (next coupon display and redeem) from the first time and the second time, optically scanning a second transaction code from the visual display of the wireless communication device to complete the wireless transaction, optically scanning the first transaction code from the wireless communication device (displaying stored user information on the SCR10 in bar code format such that the stored user information can be read at the point-of-sale by scanner see step 182, fig. 9, page 9, line 2-page 10, line 3, page 11, lines 14-20). Hymel et al also teaches user information is stored in the selective call receiver. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device of Lewis by specifically adding optically scanning the first transaction code from the wireless communication device it for the purpose of increasing the efficiency of communication system, providing demographic information and to redeem code for users of selective call receiver as taught by Hymel et al. Hymel et al teaches and transmitting a message to the wireless communications device indicating that the wireless transaction has been fulfilled (page. 12, lines 6-11). Hymel et al teaches user information is stored in the selective call receiver and providing information in bar code format on a display (28, fig. 1) SCR (mobile station). The display can display information in bar code format (Figs. 2 and 3). The information in bar code

format can include user information in bar code format or an affinity code and an identifier in bar code format (page 4. line 3-13, The computer 138 may then instruct the messaging system 148 to send a message to the user's SCR to notify the user of the total coupon discounts that were applied in step 188). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device of Lewis by specifically adding a message to the wireless communications device indicating that the wireless transaction has been fulfilled it for the purpose of providing notification base on accepted transaction for increasing the efficiency of communication system as taught by Hymel et al. Hymel et al and Lewis do not specifically teach code being a two dimensional code.

In a similar field of endeavor, Melick teaches code being a two dimensional code (para. # 0035, 0041). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device of Lewis and Hymel et al by specifically adding transaction code being a two dimensional it for the purpose of increasing the efficiency of communication system, minimizes the need for middleware, and effectively reads standardized bar code symbology taught by Melick.

Regarding claims 34, 36, 37 Hymel et al teaches wherein the transaction apparatus is coupled to a telecommunication network system for enabling communication with the wireless communication device (fig. 7, 10), wherein the transaction apparatus is coupled to a telecommunication network system for enabling communication with the wireless communication device and wherein the transaction apparatus is coupled to the telecommunication network through a computer network

system (page 6, lines 23-36, page 12, line 33-page 13, line 5, page 13 lines 29-37, page 14, line 3-37, see claim 30).

Regarding claims 40-43 Hymel et al teaches wherein the transaction apparatus includes a code scanning device for optically scanning the transaction code, wherein the code scanning device includes a bar code reader and wherein the transaction apparatus and the wireless communication device each include a radio transceiver for enabling, communication directly between the wireless communication device and the transaction apparatus (page 9 line 32-page 10, line 25, see claim 30).

Regarding claim 47 Lewis teaches a method for facilitating a wireless transaction, the wireless transaction involving a transaction request and an authorization with respect to a product or service, and a given action associated with the transaction request and authorization, the given action involving personal bodily access into a physical location using a wireless communication device, and wherein the given action is conditioned upon the transaction request and authorization, comprising (figs. 4-5 and 7):

at a first time, receiving the transaction request from a transaction requester using a wireless communications device (para. # 0027, 0030);

receiving, by said wireless communication device, a first transaction code in response to said the authorization of the transaction request, the first transaction code being a code capable of being output from the wireless communication device and authorizing the given action at a point of fulfillment (para. # 0027, 0030-0031); and

at the point of fulfillment, and a second time distinct from the first time, optically scanning the first transaction code from the wireless communication device to permit personal bodily entry into the physical location to complete the wireless transaction (para. # 0027, 0030-0031, figs. 4-5 and 7). Lewis does not specifically teach in detail at a third time distinct from the first time and the second time, optically scanning a second transaction code from the visual display of the wireless communication device to complete the wireless transaction.

In a similar field of endeavor, Hymel et al teaches a third time distinct (next coupon display and redeem) from the first time and the second time, optically scanning a second transaction code from the visual display of the wireless communication device to complete the wireless transaction, optically scanning the first transaction code from the wireless communication device, optically scanned for authorizing the given action at a point of fulfillment (displaying stored user information on the SCR10 in bar code format such that the stored user information can be read at the point-of-sale by scanner see step 182, fig. 9, page 9, line 2-page 10, line 3, page 11, lines 14-20). Hymel et al also teaches user information is stored in the selective call receiver. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device of Lewis by specifically adding optically scanning the first transaction code from the wireless communication device it for the purpose of increasing the efficiency of communication system, providing demographic information and to redeem code for users of selective call receiver as taught by Hymel et al.

Hymel et al teaches and transmitting a message to the wireless communications device indicating that the wireless transaction has been fulfilled (page. 12, lines 6-11). Hymel et al teaches user information is stored in the selective call receiver and providing information in bar code format on a display (28, fig. 1) SCR (mobile station). The display can display information in bar code format (Figs. 2 and 3). The information in bar code format can include user information in bar code format or an affinity code and an identifier in bar code format (page 4. line 3-13, The computer 138 may then instruct the messaging system 148 to send a message to the user's SCR to notify the user of the total coupon discounts that were applied in step 188). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device of Lewis by specifically adding a message to the wireless communications device indicating that the wireless transaction has been fulfilled it for the purpose of providing notification base on accepted transaction for increasing the efficiency of communication system as taught by Hymel et al. Lewis and Hymel et al do not specifically teach code being a two dimensional code.

In a similar field of endeavor, Melick teaches the first transaction code being a two dimensional (2D) image that encodes information in two dimensions (para. # 0035, 0041). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device of Lewis and Hymel et al by specifically adding transaction code being a two dimensional it for the purpose of increasing the efficiency of communication system, minimizes the need for middleware, and effectively reads standardized bar code symbology taught by Melick.

Claims 26-29, 31-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lewis (20030105641) and further in view of Hymel et al (WO 00/03328), Ulvinen et al (6393305) and Melick et al (20070246538).

Regarding claims 26-29, 31-33 Lewis teaches a method for facilitating a wireless transaction, the wireless transaction involving a purchase action with respect to a product or service, and a fulfillment action associated with the purchase action, the fulfillment action involving personal bodily entry into or through a physical structure using a wireless communication device, comprising (figs. 4-5 and 7):

communicating, over a wireless communication link, a wireless transaction request from the wireless communication device to a transaction apparatus on behalf of a transaction requester seeking personal bodily entry into or through a the physical structure using a the wireless communication device (para. # 0027, 0030-0031, figs. 5 and 7);

thereafter, approving the purchase action with respect to the product or service; receiving, by the wireless communication device over the wireless communication link, a transaction code after authenticating the authentication code, and approving the purchase action with respect to the product or service, the transaction code capable of being displayed on the wireless communication device and for authorizing the fulfillment action at a point of fulfillment (para. # 0027, 0030-0031, figs. 5 and 7);

displaying the transaction code on a visual display of the wireless communication device (para. # 0027, 0030-0031, figs. 5 and 7); and

at the point of fulfillment, the transaction code from the visual display of the wireless communication device to permit personal bodily entry into or through a physical structure to complete the wireless transaction (para. # 0027, 0030-0031, figs. 4-5 and 7). Lewis does not specifically teach optically scanning the transaction code from the wireless communication device.

In a similar field of endeavor, Hymel et al teaches optically scanning the transaction code from the wireless communication device (displaying stored user information on the SCR10 in bar code format such that the stored user information can be read at the point-of-sale by scanner see step 182, fig. 9, page 9, line 32-page 10, line 3, page 11, lines 14-20). Hymel et al teaches user information is stored in the selective call receiver. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device of Lewis by specifically adding optically scanning the first transaction code from the wireless communication device it for the purpose of increasing the efficiency of communication system, providing demographic information and to redeem code for users of selective call receiver as taught by Hymel et al.

Hymel et al teaches and transmitting a message to the wireless communications device indicating that the wireless transaction has been fulfilled (page. 12, lines 6-11). Hymel et al teaches user information is stored in the selective call receiver and providing information in bar code format on a display (28, fig. 1) SCR (mobile station). The display can display information in bar code format (Figs. 2 and 3). The information in bar code format can include user information in bar code format or an affinity code

and an identifier in bar code format (page 4. line 3-13, The computer 138 may then instruct the messaging system 148 to send a message to the user's SCR to notify the user of the total coupon discounts that were applied in step 188). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device of Lewis by specifically adding a message to the wireless communications device indicating that the wireless transaction has been fulfilled it for the purpose of providing notification base on accepted transaction for increasing the efficiency of communication system as taught by Hymel et al. Lewis and Hymel et al. does not specifically teach communicating a spoken authentication code from the wireless communication device to the transaction apparatus; authenticating the spoken authentication code.

In an analogous art, Ulvinen et al teaches communicating a spoken authentication code from the wireless communication device to the transaction apparatus; authenticating the spoken authentication code (col.4, lines 31-67, col.5, lines 1-28, fig. 3). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device of Lewis and Hymel by specifically adding authenticating the spoken authentication code it for the purpose of increasing the efficiency of communication system to provides an improved biometric system in particular a voice actuating recognition system that relies on a set of words or images as taught by Ulvinen et al.

Hymel et al, Lewis and Ulvinen et al do not specifically teach code being a two dimensional code.

In a similar field of endeavor, Melick teaches the first transaction code being a two dimensional (2D) image that encodes information in two dimensions (para. # 0035, 0041). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device of Lewis and Hymel et al by specifically adding transaction code being a two dimensional it for the purpose of increasing the efficiency of communication system, minimizes the need for middleware, and effectively reads standardized bar code symbology taught by Melick.

Response to Arguments

5. Examiner informed the Applicant's that newly added claims 52-53 and partial new added limitation were not address in the last office action. It is typo mistake. However, all of the claims are rejected for the same reason as discussed with respect to claims 1-3, 5-12, 14-34, 36-37, 40-43, 47-49 and 51-53 in the last office action mailed 05-01-09.

Examiner has been considered the rule 132 Declaration of Malik Mamdani that was submitted with the Communication on February 15, 2009. Whitworth is removed from the Office action.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KHAWAR IQBAL whose telephone number is (571)272-7909. The examiner can normally be reached on 9 am to 6.30 pm Monday to Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, GEORGE ENG can be reached on 571-272-7495. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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/George Eng/
Supervisory Patent Examiner, Art Unit 2617

/K. I./
Examiner, Art Unit 2617